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INTRODUCING FEDERAL NATIONAL ENVIRONMENTAL POLICY ACT PRACTITIONERS TO THE MONTANA ENVIRONMENTAL POLICY ACT PROCESS

This fact sheet is designed to familiarize Federal [National Environmental Policy Act](#) (NEPA) practitioners with the [Montana Environmental Policy Act](#) (MEPA). When a proposed NEPA action also requires compliance with MEPA, it is important that practitioners familiarize themselves with MEPA and understand how MEPA compares to and contrasts with NEPA.

Both statutes are designed to facilitate informed decision-making and environmental review. This fact sheet compares MEPA and the [Montana Code Annotated \(MCA\) title 75 Chapter 1](#) with CEQ's regulations for implementing the procedural provisions of NEPA, [40 CFR Parts 1500-1508](#).

This fact sheet only provides basic information and is intended to serve as a springboard for discussion with Montana Environmental Quality Council (EQC) staff when proposed projects trigger both Federal and state environmental review requirements. Project proponents are strongly encouraged to contact EQC in the early stages of project planning so that Federal and state environmental review processes, if applicable, can be appropriately aligned.

Introduction

MEPA requires state agencies to consider the impact of governmental actions on the environment to address the “profound impact of human activity on the interrelations of all components of the natural environment particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and the new and expanding technological advances, recognizing the critical importance of restoring and maintaining the environmental quality to the overall welfare and human development” ([MCA 75-1-103](#)). Since 1971, MEPA has mandated the completion of environmental impact statements for any action that is undertaken, supported, granted, or approved by a state agency ([Guide to the Montana Environmental Policy Act](#)).

Key Points of Comparison

The table below compares NEPA terms and procedural requirements to MEPA terms and procedural requirements set forth by the MCA.

NEPA	MEPA
Categorical Exclusion, 40 CFR 1508.4 , 40 CFR 1507.3	Categorical Exclusion, Model Rule II(2)(b)(5)
Environmental Assessment (EA), 40 CFR 1508.9 , 40 CFR 1501.3	Environmental Assessment (EA), Model Rule V
Finding of No Significant Impact (FONSI), 40 CFR 1508.13	N/A



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Notice of Intent, 40 CFR 1508.22	N/A
Draft Environmental Impact Statement (DEIS), 40 CFR 1502 , 40 CFR 1508.11	Draft Environmental Impact Statement (DEIS), MCA 75-1-201
Final Environmental Impact Statement (FEIS), 40 CFR 1502 , 40 CFR 1508.11	Final Environmental Impact Statement (FEIS), MCA 75-1-201
Record of Decision, 40 CFR 1505.2	Record of Decision, Model Rule XVIII(1)

The bullets below provide a general comparison of processes:

- Instead of FONSIIs ([40 CFR 1508.13](#)) the MEPA process permits an EA ([Model Rule V](#)) as opposed to an EIS if there is a project that is likely to have no significant impact.
- MEPA welcomes public engagement throughout the process by seeking public comments on EAs and EISs but does not require a public hearing until 10% or 25 people, whichever is less, of the persons who will be directly affected by the proposed action request a hearing [Model Rule XXIII\(3\)\(a\)](#). NEPA also requires a public comment and review period during the EIS process, but the occurrence and location of any hearing is left to agency discretion. ([40 CFR 1501.7](#)).
- MEPA requires that the public is provided a minimum 30-day comment period for the DEIS and a 15-day comment period for the final EIS. [Model Rule X](#). NEPA requires a 45-day public comment period for a DEIS and requires a public hearing if there is significant public interest; further, NEPA requires a 30-day review period (which the agency can designate as a public review and comment period) for a final EIS [40 CFR 1506.10\(c\)](#).
- Actions, known as categorical exclusions, that have been determined through rulemaking or programmatic reviews not to have an individual, collective, or cumulative impact on the environment are excluded by statute from the MEPA process. [Model Rule II\(2\)\(b\)\(5\)](#).
- State agencies that must complete an EIS for NEPA and for MEPA can do so using a joint EIS. [Model Rule II\(10\)\(c\)](#).

Contact Information and Resources

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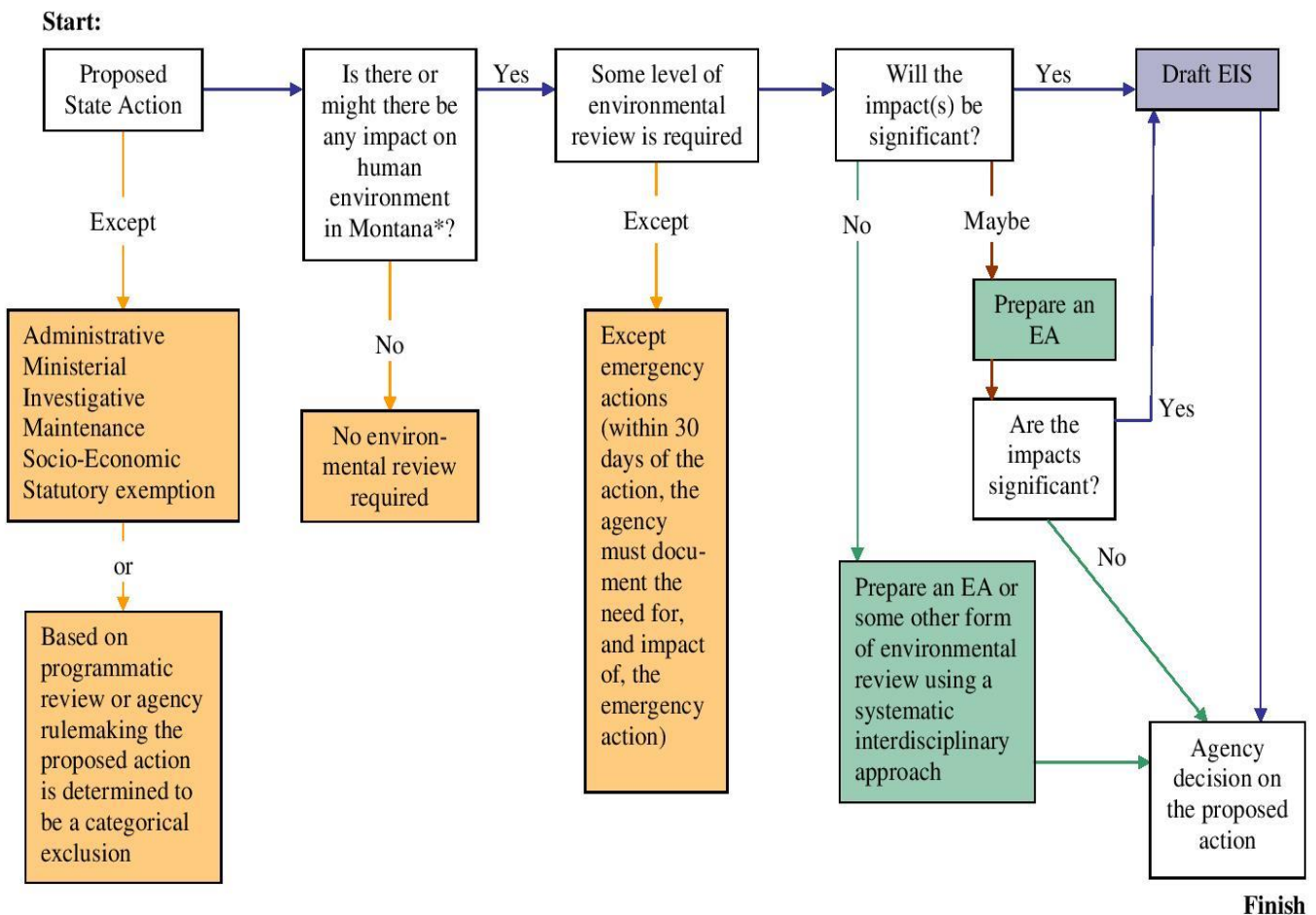
- EQC's MEPA Training for State Employees (April 2010 MEPA/NEPA Differences):
<http://leg.mt.gov/content/Services%20Division/Lepo/mepa-training/mepa-nepa-differences.pdf>



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Figure 1: MEPA Process¹

The MEPA Process



*Impacts beyond Montana's borders may be considered if the environmental review is being conducted by DFWP for the management of fish and wildlife, or the review of those impacts is required by law, rule, regulation, or a federal agency. 75-1-201(2)(b), MCA

¹ <http://leg.mt.gov/content/Services%20Division/Lepo/mepa-training/mepa-process-flowchart.pdf>